

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X694

Date of Final Decision: 3 January 2022

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer, who is on a low income and therefore financially vulnerable, has complained to the company about estimated billing, water faults, the right to water, and water quality. The customer wants her bills to be reduced and does not want to have to make a contribution to the company's investments. She would also like compensation for bottled water purchased by her.

Response

The company denies liability for this claim. It says that it has billed the customer in accordance with its Charges Scheme and has drawn her attention to schemes that can help her manage bills.

Findings

Although the customer has expressed a number of concerns about her bills and about the water quality, some of her complaints fall outside the scope of the WATRS Scheme. In respect of others the evidence does not show that the company has fallen short of a reasonably expected standard. The customer is not able to succeed in her claim for a remedy.

Outcome

The company does not need to take any further action.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

ADJUDICATOR'S FINAL DECISION

Adjudication Reference: WAT-X694

Date of Final Decision: 3 January 2022

Case Outline

The customer's complaint is that:

- The customer has complained to the company about:
 - Estimated billing;
 - Water Faults;
 - The right to water; and
 - Water quality.
- In respect of her water quality, the customer says that she uses 2 bottles per day of purchased water at a cost of 54p and has been doing so for over 8 years. This currently equates to roughly $365 \times 8 = 2920$ bottles @ 54p = £1,576.80. She also had to initially purchase a water distiller to purify the water of fluoride and any other additives at a cost of £150.00. The customer asks for reimbursement and says that the company has promised this.
- The customer is also not happy that she is being asked to pay for the company's investments.
- The customer wants her bills to be reduced and does not want to have to make a contribution to the company's investments. She would also like compensation for bottled water purchased by her.

The company's response is that:

- In summary the company says that the company bills the customer on a metered basis, as a meter was fitted at the property on 14 June 2006. The charges are based on the total volume of water used. The company received the initial complaint from the customer on 21 May 2021. The customer was unhappy with bills being estimated and with water faults at her home. She commented that she has a right to water, that the quality of water at the property and did not want to pay for the company's investments. The company replied on 28 May 2021 offering help with the bill. It informed the customer that the amount used was low and right for her circumstances.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

- The customer sent a further complaint on 1 June 2021. The customer remained unhappy with the water faults at her home and did not want to pay towards any of the company's investments. The customer also asked for compensation of £1,576.80 for bottled water; but could not provide receipts to validate her claim. The company replied to the customer on 9 June 2021 offering further help and advice.
- The company received a further complaint on 21 June 2021 from the customer on these issues and the company replied on 29 June 2021 answering the customer's questions.
- The company should not be directed to reduce the bills or exclude the customer from paying toward investment. The company has a legal duty to invest in water and sewerage services. Excluding charges to customers would limit the provision of and investment in these services.
- The customer's bills are correct based on the amount of water used and the company has offered help with the balance.
- The company denies liability for this claim.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

1. Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
2. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show on a balance of probabilities that the company has failed to provide its services to the standard one would reasonably expect and that as a result of this failure the customer has suffered some loss or detriment. If no such failure or loss is shown, the company will not be liable.

I have carefully considered all of the evidence provided. If I have not referred to a particular document or matter specifically, this does not mean that I have not considered it in reaching my decision.

How was this decision reached?

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

1. The customer, who is on a low income and therefore financially vulnerable, has raised a number of complaints. She has repeated these in her comments on my Preliminary Decision and says that some of her concerns have been skimmed over, namely her belief that there are water faults, that the company has wrongfully applied estimated readings, that she has had to accept the company's position under duress and that there are chemicals in the water that have not been tested. She says:

Furthermore, I did not enter into any contract with The Company whereby they can charge me excessive amounts for their own investments, therefore can you please ask The Company to produce any original contract showing my wet signature which would ascertain whether I unwittingly entered into any contract with them. Finally, I trust that this matter will be treated fairly, justly and without discrimination, with mindfulness of the terrible cost-of-living crisis that the government has placed upon the nation which has prolifically affected poverty levels in the UK.

2. I preface my observations by explaining that the right that a company has to raise charges against its customers is not dependent on the existence of a contract between them but is a right given to the company under statute law (the Water Industry Act 1991). It follows, therefore that the company is not required to produce a copy of a contract in order to justify its right to charge the customer. Bearing that in mind, I refer to the company's charges again below.

Billing

3. The customer makes two complaints about the company's billing. First, she says that she does not agree with the use of estimated automatic readings throughout the annual period and says that this is "harassment and deceit". Secondly, she says that the company should not impose charges on her in order to make investments for future service delivery.
4. The company explains that it has a right to charge customers and is required by Ofwat to do so in accordance with a published Scheme of Charges. Although the customer objects to the company's reference to legislation and regulation as a justification for charges, I bear in mind that the test that must be applied to the customer's complaint is whether an average customer would reasonably believe that the company was supplying its services to the expected standard.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

5. In accordance with the Scheme of Charges, the company says that the customer has a metered supply of water and is charged based on the total volume of water used. The company points out that the customer can control the amount of water used and this is reflected in the amount charged. The readings taken by the company show that the customer uses less than expected for a single person and the customer's bills are low. The company says that metered charges remain the best option for the customer as they are cheaper than other available billing methods.
6. The company is also required by law to take manual readings on a regular basis – it must take readings itself at least once every two years and may rely on readings taken by another in other years. Except where it is required to take a meter reading, the company is entitled to rely on estimates, automatic readings or readings supplied by the customer. The company explains that it bills the customer quarterly; however, the customer is paying less than the total billed amount, causing arrears to build up. As a result, each time the account is billed, the arrears are brought forward so the bills look higher than they would if there were no arrears.
7. Against this background, I find that where the company has said that it will charge on a certain basis, an average customer would reasonably expect the company to do so. I therefore find that an average customer would reasonably expect that the company would charge the customer in accordance with its Scheme of Charges. The company is raising charges against the customer for metered charges.
8. I find that there is no evidence that, in between the manual readings, the estimated readings are incorrect or disproportionate and many if not all of the readings are taken manually. Notably, the Consumer Council for Water (CCWater) has carried out a check on readings and has satisfied itself that actual meter readings are being taken and that the billing is consistent with the readings. CCWater has summarised its findings in this regard:

CCW contacted The Company and it provided the following actual readings:

571 – March 2020

582 – September 2020

593 – March 2021

605 – October 2021 – this meter reading is estimated but The Company has arranged to take an actual reading in the next 28 days.

We found the usage between the readings to be consistent.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

...

The Company has explained why The Customer's account is in debit and what her ideal payments need to be.

The company has submitted evidence that it took an actual reading and explained to the customer by letter dated 1 November 2021 that the reading was the same as the estimate.

9. In light of the available evidence, therefore, I find that there is no evidence of “harassment and deceit” and no evidence that the company has acted otherwise than in accordance with the expectations of an average customer in respect of the customer’s meter readings.
10. Moreover, in relation to billing, the customer has also complained that a component of the company’s charge relates to its investments. In her reply to the company dated 21 June 2021, the customer said:

I have already stated, and this should in fact be very obvious to you regarding very low-income households, that I am unable to contribute to your 'above inflation investment charges'. It would be much more prudent and fairer to take your 'investment' costs from your board members, executives and management, who profit from your company's income and generally have very high comparative salaries/bonuses, and shareholder bonuses, as obviously they have much more available disposable income than people with very low incomes who can barely afford to eat properly.

Simply because a regulatory body gives guidance, it does not mean that it is right or justified to charge low-income households for your company's 'above-inflation investment costs'.

11. I find, therefore, that the complaint that the customer makes is as to the company’s commercial practices in setting its charges and allocating them to all of its customers including those on a low income, rather than requiring only high-income customers to make such payments.
12. I further find that this issue cannot be decided in an application to WATRS. This is because the determination of its charges is a matter of the company’s commercial strategies and practices. The rules of this Scheme state at rule 3.5:

3.5 The Scheme cannot be used to adjudicate disputes which fall into one or more of the following categories:

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

...

- disputes relating to the fairness of contract terms and/or commercial practices;
- disputes concerning allegations of fraudulent or criminal activity...

13. It follows, therefore, that I make no finding that the that the company has failed to supply its services to the appropriate standard in relation to its billing practices and no evidence that the customer's bills are incorrect.

14. I also note that the company has agreed to assist the customer to pay her bills by setting up a payment plan. Although the customer complains that this has an impact on her credit rating, there is no evidence that the information provided to credit reference agencies by the company is incorrect and I note that this is both consistent with its policies and the customer has been told that this will occur. The company also says that it has offered to help with the arrears via the Resolve Scheme. The Customer also has the option to ask the The Company Community Trust for help. An application inviting the Customer to apply was sent on 1 November 2021 but the customer had also been informed about these matters in the company's response to her email of 29 June 2021.

Water faults

15. The customer says that her bills have over time been too high because of faults affecting her water usage. There is, however, no evidence of any faults other than the customer's perception of increased usage. In her reply to the company's evidence, the customer states:

They also asked me to list the repairs at my property, which took me a lot of time to do as it covers several years, and then they washed over them and disregarded them as irrelevant. I have repeatedly informed them that the repairs caused an increase in water usage but they choose to ignore this. I have even detailed my usage which is exceptionally low (which they agree) and they still choose to ignore my communication in this regard. In particular, it is to be noted that my water consumption has decreased even further recently.

16. The company replied to the customer's complaint about this in June 2021. It stated:

We note your comments about the issues you've had on your private pipework and that this may have impacted your water use. Whilst we're happy to support customers whose water

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

use temporarily increased due to leakage, there is no evidence to show that what has happened on your private supply has affected your use. Customers are responsible for all water recorded on the meter, whether this has been used or lost due to leakage. Any allowances we give are discretionary and as previously explained, there's no evidence to indicate any temporary increase in your use.

If your landlord has fixed your boiler and you believe you're now using less water, please let us know and we'll arrange to read the meter to find out if this affected your use. If we find that is has, we'll review your bills.

17. I find that the customer has submitted no persuasive evidence that the customer has lost water due to faults in her property and still less that these were the responsibility of the company. The water meter itself is the best evidence of the customer's use of water. Although the customer complains that she was asked to list relevant matters, I find that this was an important aspect of determining whether the company could offer additional help, for example, by an allowance. I find that the customer did not put forward evidence that showed that the customer would be entitled to this.

18. It does not follow, I find, that the company failed to supply its services to a correct standard. I find that the customer also does not succeed in relation to this aspect of her claim.

The right to water

19. The customer argues that there is a basic right to water which is a natural resource available to everyone. She says:

Regardless of their use of hiding behind their small print 'company legislation', their immoral stance with regard to basic human rights to clean water, which is a plentiful natural free resource, and their deliberate intention to charge consumers for their company investments without full disclosure to the consumers, in particular low-income customers, is deceitful and unacceptable.

It is extremely unfair to coerce or deceive consumers into paying their admitted overinflation increased charges without full knowledge or consent. I had no idea they were doing this until I asked them for clarification throughout the course of these lengthy time-consuming communications and I am sure that many other consumers are also unaware.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

This indeed raises a concern regarding just how much profit The Company are making from charging consumers for a naturally free plentiful resource via their admittedly over inflated charges, without consumers' full knowledge, full disclosure and consent. I shall take this matter further and make it known that they are using these deceitful under-handed ways to steal money from consumers without their consent.

20. This complaint is therefore also linked to the customer's concern that she is asked to pay for the company's future investments and to her concern that the amount of the charge relating to the company's future planning is not transparent.
21. The company explains that it has a legal duty to make investments for the future. As the company has a duty to maintain, develop and repair its fresh water and sewerage networks and develop these for the future, it is inevitable, I find, that future purchases that are for the purpose of development and improvement will need to be budgeted for and charges imposed on customers. Moreover, clean water is delivered to customers generally as a result of services supplied by the company. Pricing is overseen by Ofwat, which undertakes a Price Review Determination every five years in which each company submits its future plans to Ofwat. These are then checked and challenged, including in relation to how much companies have planned to spend to deliver their plans. I find, therefore, that an average customer would reasonably expect to be billed within the price structure overseen by Ofwat and published in accordance with the company's Scheme of Charges. There is no evidence that the company has not complied with its Scheme of Charges.
22. Moreover, price setting is not a matter that can be adjudicated upon by a WATRS adjudicator because rule 3.5 of the Scheme rules precludes my consideration of any matter over which Ofwat has powers to determine an outcome.
23. It follows that I find that the customer is not able to succeed in respect of this aspect of her complaint.

Water quality.

24. The customer says:

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

They [the company] have not attempted to test the water at my property and simply stating that there have been no other complaints in this regard does not address my complaints. The drinking water coming from the taps in my property are full of strongly smelling chemicals which I do not want to put into my body. What are these chemicals? Perhaps a full disclosure report is required for the benefit of all consumers who are entitled to be aware of what they are consuming, especially as they are paying over-inflated charges for this naturally free resource.

25. The company says that the water which the customer receives is moderately soft and without added fluoride. It has submitted information about the composition of the water. It is also notable that the company has given an explanation to the customer on 1 June 2021 as to the presence of “bits and discolouration” which it advises is unlikely to be harmful to health. Additionally, the company explains that due to the pandemic, it has not been making visits to customers homes where any problem is likely to derive from the customer’s own pipework.

26. I find that there is no evidence that the company’s water fails to meet legal standards. As to those standards themselves, I have no jurisdiction to make a decision. Rule 3.5 of the Scheme rules states:

3.5 The Scheme cannot be used to adjudicate disputes which fall into one or more of the following categories:

....

water quality legal standards;

27. I therefore find that there is no evidence that the company has failed to supply wholesome water to the customer and therefore no evidence that the company has failed to meet expected standards.

28. Moreover, although I can reach a finding in relation to the company’s handling of this complaint by the customer and I note that the customer says that her concerns about water quality have not been investigated, the company has put forward an explanation that I find would be understandable to an average consumer, particularly as the risk to health through human contact is still present. I find that, as there is no objective evidence that the water it supplies to the customer’s home is substandard, the company has not failed to meet expected standards.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

29. Additionally, the customer also says that she was asked to carry out a calculation of the cost to her of bottled water because, she says, the company agreed to reimburse her. Having regard to the correspondence, however, I find that the company agreed to reimburse her for bottled water if it found that the water with which she had been supplied had been substandard. The company has now investigated the supply to her household, however, and it has not found that the water was other wise that would ordinarily have been expected. It follows, I find, that the customer has not shown that she is entitled to reimbursement.

30. Overall, although I have reconsidered the findings as set out above both in my Preliminary Decision and in this Final Decision, and in particular I have considered whether I have “skimmed” issues that the customer wishes to raise, I remain unable in my Final Decision to reach the conclusions that the customer wishes.

31. I therefore find that the customer has not shown that the company failed to supply its water services or customer to the expected standard. It follows, therefore, that the customer is not able to succeed in her claim for a remedy.

Outcome

The company does not need to take any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- When you tell WATRS that you accept or reject the decision, the company will be notified of this. The case will then be closed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.



Claire Andrews

Claire Andrews, Barrister, FCI Arb.

Adjudicator

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.